

DO NOT REMOVE
FROM THE FILE

THE EFFECTIVE DATE OF THIS ORDINANCE IS March 5, 2002

ORDINANCE NO. 02-04-300

RE: APPLICATION OF SILVERMAN COMPANY L.L.C.

APFO-01-02

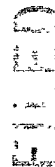
PREAMBLE

Silverman Company L.L.C. filed this Zoning Text Amendment application to amend Sections 1-20-5 and 1-20-7 of the Adequate Public Facilities Ordinance concerning housing for older persons.

The staff of the Frederick County Planning Commission reviewed this request and recommended approval of the request.

The Frederick County Planning Commission considered this matter at its public meeting held on February 13, 2002. The Planning Commission voted to recommend approval of the request.

The Board of County Commissioners held a duly advertised public hearing on the proposed text amendment on March 5, 2002. The public had an opportunity to comment on the proposal at this public hearing.



APR 15 2 30 PM '02

SANDRA K. DALTON

PC! CAO, PLANNING, PUBLIC WORKS, DUSWM, GROSSWICKLE, F. ARE

BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY

COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Sections

1-20-5 and 1-20-7 of the Frederick County Code (1979) are hereby amended by adding the following:

Section 1-20-5 Definitions

***HOUSING FOR OLDER PERSONS* MEANS HOUSING INTENDED AND OPERATED FOR OCCUPANCY BY PERSONS 55 YEARS OF AGE OR OLDER, AND**

- (i) AT LEAST 80 PERCENT OF THE OCCUPIED UNITS ARE OCCUPIED BY AT LEAST ONE PERSON WHO IS 55 YEARS OF AGE OR OLDER;**
- (ii) THE HOUSING FACILITY OR COMMUNITY PUBLISHES AND ADHERES TO POLICIES AND PROCEDURES THAT DEMONSTRATE THE INTENT REQUIRED UNDER THIS SUBPARAGRAPH; AND**
- (iii) THE HOUSING FACILITY OR COMMUNITY COMPLIES WITH RULES ISSUED BY THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT FOR VERIFICATION OF OCCUPANCY, AS SET FORTH IN THE FAIR HOUSING ACT, 42 USC 3601 ET SEQ.**

Section 1-20-7 Exemptions

E. ANY PROJECT WHICH QUALIFIES AS "HOUSING FOR OLDER PERSONS" DEFINED IN SECTION 1-20-5 HEREOF, AND WHICH MEETS THE FOLLOWING CRITERIA SHALL BE EXEMPT FROM THE SCHOOLS TEST UNDER THIS ORDINANCE:

- 1. THE PROPOSED PROJECT MUST COMPLY WITH THE MINIMUM AGE RESTRICTION, AS STATED IN THE FAIR HOUSING ACT REQUIREMENTS FOR OLDER PERSONS, AND THEREBY MAINTAIN AN EXEMPTION FROM THE PROHIBITION AGAINST FAMILIAL STATUS DISCRIMINATION, SUCH THAT CHILDREN WILL BE EXCLUDED AS RESIDENTS.**

CAPITALS AND/OR UNDERLINING INDICATE ENTIRELY NEW MATTER ADDED TO EXISTING ORDINANCE.

[Brackets] indicate matter deleted from existing Ordinance.

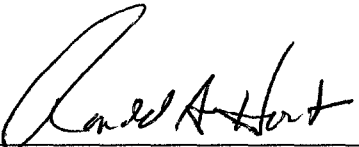
- 2. THE ZONING CERTIFICATE, SITE PLAN AND SUBDIVISION APPROVALS SHALL LIMIT USAGE OF THE PROPERTY TO AGES SPECIFIED BY THE FAIR HOUSING ACT IN ORDER TO QUALIFY AS HOUSING FOR OLDER PERSONS, AS DESCRIBED IN 1. ABOVE.**
- 3. THE CONSTRUCTION AND DEVELOPMENT OF THE PROJECT MUST REFLECT THE SPECIAL NEEDS OF THE SENIOR CITIZENS RESIDENTS AND INCLUDE A FULL PROGRAM OF AMENITIES AND OTHER ACTIVITIES FOR OLDER PERSONS.**
- 4. AS PART OF THE SITE PLAN APPROVAL PROCESS, THE COUNTY PLANNING COMMISSION MUST REVIEW AND APPROVE THE PROPOSED RESTRICTIVE COVENANTS APPLICABLE TO THE PROJECT TO ENSURE THAT THE PROJECT IS LIMITED TO HOUSING FOR OLDER PERSONS AND THAT APPROPRIATE ENFORCEMENT MECHANISMS ARE IN PLACE TO ENFORCE THE AGE RESTRICTION AND ALSO ENSURE COMPLIANCE WITH THE REQUIREMENTS TO QUALIFY AS HOUSING FOR OLDER PERSONS UNDER THE FAIR HOUSING ACT.**
- 5. PRIOR TO RECORDATION OF SUBDIVISION PLATS AND ISSUANCE OF THE ZONING CERTIFICATE FOR THE PROJECT, RESTRICTIVE COVENANTS MUST BE RECORDED WHICH COMPLY WITH THE FAIR HOUSING ACT, ADDRESS SENIOR CITIZEN HOUSING AND THE EXCLUSION OF SECONDARY SCHOOL AGED OR YOUNGER CHILDREN AS RESIDENTS, AND CONTAIN APPROPRIATE ENFORCEMENT MECHANISMS. ANY SUBSEQUENT REVISIONS OR MODIFICATIONS OF THE COVENANTS PERTAINING TO AGE LIMITS ON OCCUPANCY SHALL BE SUBMITTED TO THE PLANNING COMMISSION FOR APPROVAL PRIOR TO RECORDATION. SUCH REVISIONS OR MODIFICATIONS WILL REQUIRE THE RE-APPROVAL OF THE SITE PLAN, ZONING CERTIFICATE, AND SUBDIVISION PLAT (S), AS NECESSARY.**
- 6. BEFORE ANY REVISION OR MODIFICATION TO THE PROJECT AT ANY TIME IN THE FUTURE, WHETHER THE PROJECT IS BUILT OUT AND OCCUPIED OR NOT, WHICH HAS THE EFFECT OF REMOVING OR SUBSTANTIALLY MODIFYING THE AGE RESTRICTION FOR RESIDENTS, THE PROJECT MUST FIRST COMPLY WITH THE SCHOOLS ADEQUACY REQUIREMENTS UNDER THIS ORDINANCE.**

7. ANY PROJECT APPROVED UNDER THIS SECTION SHALL MEET THE REQUIREMENTS OF THE SECTIONS OF THIS ORDINANCE REQUIRING THAT ROADS, PUBLIC WATER AND SEWERAGE FACILITIES BE ADEQUATE.
8. "APPROPRIATE ENFORCEMENT MECHANISMS" AS USED IN THIS SECTION SHALL INCLUDE THAT THE RESTRICTIVE COVENANTS FOR THE PROJECT REQUIRE THE HOMEOWNERS ASSOCIATION, THROUGH A PROPERTY MANAGEMENT AGENT, TO ENFORCE THE AGE RESTRICTIONS AND ENSURE COMPLIANCE WITH THE REQUIREMENTS TO QUALIFY AS HOUSING FOR OLDER PERSONS UNDER THE FAIR HOUSING ACT SUCH THAT CHILDREN WILL BE EXCLUDED AS RESIDENTS. IF MORE THAN ONE HOMEOWNERS ASSOCIATION IS ESTABLISHED FOR THE PROJECT, THEN THE HOMEOWNERS ASSOCIATION GOVERNING THE HOUSING FOR OLDER PERSONS PROJECT SHALL HAVE THE PRIMARY RESPONSIBILITY FOR ENFORCING THE AGE RESTRICTIONS AND ENSURING COMPLIANCE WITH THE REQUIREMENTS TO QUALIFY AS HOUSING FOR OLDER PERSONS UNDER THE FAIR HOUSING ACT SUCH THAT CHILDREN SHALL BE EXCLUDED AS RESIDENTS.

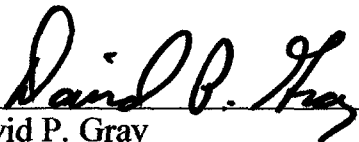
The undersigned hereby certifies that this Ordinance was approved and adopted by the Board of County Commissioners on the 5th day of March, 2002.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND



Ronald A. Hart
County Manager

By: 

David P. Gray
President

MJC 3/6/02